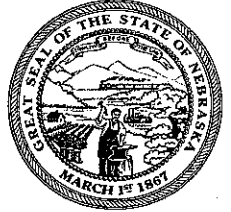


STATE OF NEBRASKA

DEPARTMENT OF INSURANCE

Ann M. Frohman
Director

January 29, 2008
CB-106 (Amended)



Dave Heineman
Governor

BULLETIN

SUBJECT: MOTOR VEHICLE SERVICE CONTRACTS

The Nebraska Motor Vehicle Service Contract Reimbursement Insurance Act sets forth requirements for all motor vehicle service contracts (VSCs) issued, sold or offered for sale in Nebraska by a provider, including an automobile dealer or an administrator. This law does not apply to manufacturer warranties or mechanical breakdown insurance policies issued directly to consumers by an insurer. This bulletin addresses questions regarding first dollar coverage, conspicuous disclosures, and multiple programs names.

First Dollar Coverage

The Nebraska Motor Vehicle Service Contract Reimbursement Insurance Act requires that all VSCs issued, sold, or offered for sale in Nebraska must be backed by a reimbursement insurance policy between the VSC provider and an insurer licensed to do business in Nebraska (Policy). The Policy must conspicuously state, "that the insurer will pay on behalf of the motor vehicle service contract provider all sums which the provider is legally obligated to pay in the performance of its contractual obligations under the motor vehicle service contracts issued or sold by the provider." *Neb.Rev.Stat. §44-3523(1) (R.S.SUPP.,2006)*. Unless the program directly obligates an automobile dealer to perform under the VSC:

- the Policy must completely and fully reimburse the provider for all repair costs incurred under the VSC from the first dollar of coverage;
- the provider shall not assume any portion of direct or first-dollar liability for repairs under a VSC;
- the Policy shall not require or allow a provider to assume any portion of direct or first dollar liability for repairs under the VSC;
- the Policy shall not include any provision whereby the insurer provides coverage in excess of reserves held by a provider or only in the event of the provider's insolvency or default; and
- all unearned premium reserves and claim reserve funds must be established as liabilities on the books of the insurer in accordance with statutory accounting practices.

See *Neb.Rev.Stat. §44-3523(2) (R.S.SUPP.,2006)*.

Conspicuous Disclosures

The Nebraska Motor Vehicle Service Contract Reimbursement Insurance Act requires certain disclosures be stated "conspicuously" on the VSC. These disclosures include:

- That the obligations of the motor vehicle service contract provider to the service contract holder are covered under the motor vehicle service contract reimbursement insurance policy;
- The name and address of the issuer of the policy; and
- The existence of a deductible, if any.

See *Neb.Rev.Stat.* §44-3522 and 210 Neb. Admin. R. & Regs. 58-006.

The Nebraska Motor Vehicle Service Contract Reimbursement Insurance Act also requires the following disclosure be stated "conspicuously" on the Policy:

- The issuer of the Policy will pay on behalf of the motor vehicle service contract provider all sums which the provider is legally obligated to pay in the performance of its contractual obligations under the motor vehicle service contracts issued or sold by the provider.

See *Neb.Rev.Stat.* §44-3523(1).

In determining whether a disclosure is conspicuous, the Department uses the definition of "conspicuous" provided by the UCC as a guideline. The UCC provides that conspicuous terms include the following:

- (A) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and
- (B) language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

See *Neb.Rev.Stat.* UCC §1-201(10) (R.S.SUPP.,2006). VSC filings will only be accepted for filing if the required disclosures are conspicuous.

Multiple Program Names

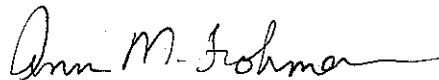
It has come to the attention of the Department that forms accepted for filing are being subsequently altered to reflect multiple program names or marketing names. This is a change in the filing, and the Department must be notified of such changes prior to use of the altered form. It is the responsibility of the entity filing the form to notify the Department of any changes in the filing.

If the only change to the form is a change in program or marketing name, it is not necessary to submit a new form filing. Prior to using the altered form, submit a letter to the Department:

- verifying that the form is already properly filed;
- providing the date the form was accepted for filing by the Department;
- verifying that there is no change in the language content of the form; and
- listing all program or marketing names that will appear on the VSC.

If the change to the form includes any change to the language content of the form, a new filing is required.

Questions regarding this bulletin should be directed to the legal division at 402-471-2201.



Ann M. Frohman
Director